

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Health Resources and Services Administration
Indian Health Service
Rockville, Maryland 20857

INDIAN HEALTH SERVICE'CIRCULAR NO. 87-2

INDIAN PREFERENCE

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1. PURPOSE. This Circular establishes the Indian Health Service (IHS) policy for granting Indian preference in filling vacant positions and the procedures for its implementation.
2. POLICY.
 - A. The policy of the IHS is to provide absolute preference to qualified Indian applicants and employees who are suitable for Federal employment in filling vacancies within the IHSThe only exceptions are those authorized by statute and these are identified in section 8.A. below.

(2. continued)

B. This policy applies no matter how the vacancy arises; i.e., it applies if the position is newly created or, if the position was previously encumbered, regardless of whether, the previous incumbent was in the competitive civil service, excepted civil Service, the Public Health Service (PHS) Commissioned Corps or Senior Executive Service (SEs). Indian preference applies to initial hiring, reassignment, transfer, competitive promotion, reappointment, reinstatement, or any other personnel action intended to fill a vacancy. For purposes of clarification, it should be noted that Indian preference does **apply** when an employee serving on a temporary promotion is returned to his or her former position (if that position was filled during the period of the temporary promotion) or is returned to another position at the same grade as the former position. (See sections 5.E.(1)d. and 5.E.(2) below).

C. This Circular should be used in conjunction with the Merit Promotion Plan (MPP) and the Excepted Service Examining Plan (ESEP).

3. STATUTORY AUTHORITY.

Title 25 U.S.C. 472.

4. ELIGIBILITY.

A. An Indian is entitled to preference in employment in the IHS if the person (1) can provide Bureau of Indian Affairs (BIA) certification that he or she is an Indian as defined by the Secretary of Interior (see exception in Section 7), (2) is qualified for the position, and (3) is suitable for Federal employment.

6. Persons who. were employed .by the IHS or the BIA as of February 16, 1978, and who established preference in any previous appointment, will continue to be preference eligibles so long as they are continuously employed by the IHS and/or the BIA, even if they do not meet the definition in 5.A. below.

5. DEFINITIONS. The following definitions are applicable to this Circular:

A. Indian. Indian means persons of Indian descent who are:

- (1) Members of any recognized Indian tribe now under Federal jurisdiction;
- (2) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;
- (3) All others of one-half or more Indian blood of tribes indigenous to the United States:

(5.A. continued)

(4) Eskimos and other aboriginal people of Alaska; or

(5) Until September 14, 1988, or until the Osage Tribe has formally organized, whichever comes first, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an Act of Congress,.

B. Professional Position.

A professional position is defined as a position in a field of science or learning for which the qualifications required include a Positive education requirement which must be met in filling the position- Such a position requires knowledge characteristically acquired through education or training equivalent to the bachelor's or higher degree from a college or university of recognized standing with major study in, or pertinent to, the specified field.

C. Qualified.

(1) Civil Service - In filling a vacancy through the civil service system, an employee or applicant is considered Qualified as follows:

(a) Competitive Civil Service -When he or she meets (a) the Qualification requirements specified in FPM Chapter 338 (b) the Qualification standard for the position set forth in Handbook ' X-118, Qualification Standards for White-Collar Positions Under the General Schedule, or in X-118C Job Qualification System for Trades and Labor Occupations, and (c) the statutory Qualification standard referenced in S.C.(4) below.

(b) Excepted Civil Service - When he or she meets (a) the Department of Health and Human Services (DHHS) requirements specified in DHHS and PHS Personnel Instructions 302-1.. and (b) the statutory Qualification standard referenced in S.C.(4) b e l o w .

(c) Selective Factors - In addition to the minimum qualification requirements for the position as specified above, the selecting official may request special job-related Qualification requirements which employees must meet. if these requirements -are absolutely essential for successful performance in that particular position. These requirements must be approved in advance by the servicing personnel officer (SPO), or his/her designee, as conforming to United States Office of Personnel Management (USOPM) and DHHS criteria for selective factors. (See FPM Chapter 332. Subchapter 4-4.)

(5.C.(1)(c) continued)

Once approved for a position; the same selective factors must **be used** each time that position is filled unless approved by the SPO. Such special Qualification factors must not include requirements which would eliminate otherwise Qualified candidates who need only a brief period (approximately 90 days) of orientation and training in order to successfully perform the duties of the position.

- (d) Qualification Requirements - To be considered Qualified, the civil service candidates must meet Qualification requirements including time-in-grade, if applicable, within 30 days after the closing date of the announcement or after being identified from a qualification skills (NOTE: time-in-grade requirements do not apply to candidates competing under the excepted service, examining plan.,) If the qualification requirements are modified after the vacancy is announced or candidates from a skills file are identified, the vacancy must be reannounced or candidates in the skills file rescreened; and all candidates must be evaluated against the new requirements. Individuals must meet all requirements, including time-in-grade, if applicable, on or before the effective date of the appointment or other personnel action.
- (e) Waiver of Qualification Requirements in the Excepted Service - Waivers of qualification requirements are handled in accordance with DHHS Personnel Manual Instruction 302-1. Waivers will be noted in the remarks section of the SF-SO-B, Notification of Personnel Action.

The FPM Letter 338-11 (General Amendment to Qualification Standards - New Agency Authority to Modify Qualification Requirements for Certain Inservice Placement Actions) dated April 28, 1987, permits waivers of qualification standards for some reassignment actions. In the IHS this provision may be used in either the competitive or the excepted service but only for Indian employees. Further, it may only be used for non-competitive reassignment actions where the new position has no greater potential than the position from which the employee is being reassigned.

- (2) Senior Executive Service (SES) - Qualifications standards Are developed for each position in accordance with OHHS Instruction 920-10, subject: Senior Executive Service Career Merit Staffing Plan.

(S.C. continued)

- (3) PHS Commissioned Corps - The commissioned corps personnel system matches the training,, experience, and performance record of the candidate against the knowledges. skills. abilities; and personal characteristics required by the particular professional category and the qualification requirements stated on the billet. The, PHS Commissioned Corps applicants must meet I) all eligibility-and statutory requirements for appointment as an officer specified In PHS regulations and the Commissioned Corps Personnel Manual: After being found eligible, and matched to a position/billet for which qualified, a commissioned corps applicant is called to active duty and assigned to a position/billet on official personnel orders. Officers on active duty are available for reassignment to meet PHS staffing needs to positions requiring the particular training, experience and demonstrated skills of the individual officers.

The officer/candidate is not required to submit an SF-171 to be considered for a vacancy unless he/she wishes. a civil service appointment. In 'that event, the officer/candidate must meet the civil service regulations, requirements. and procedures. (See section 8.F.).

- (4) Minimum Standard - As a minimum, all candidates, regardless of personnel system, must meet the statutory qualifications standard developed in accordance with 25 U.S.C. 472, and applicable court decisions (or the standard temporarily used In lieu thereof while statutory qualifications standards are being developed) and any selective factors established for the position. Additional requirements as stated above are applicable depending upon the personnel system used.
- (5) ticensure - Requirements of the PHS policy on licensure of health care providers are included as a part of the qualifications standard for each of the covered positions.

0. Suitable.

An employee or an 'applicant is considered suitable for Feaeral employment if there is no information available concerning conduct that could reasonably be expected to interfere with the agency's ability to discharge its responsibilities. FPM Supplement 731-1. Determinin Suitability for Federal Employment, provides a basis for Government-wide uniformity in making suitability determinations for civil service employment and, along with DHHS Personnel Instruction 731-1, is applicable to this Circular. Hereinafter the term "qualified" is used to mean qualified and suitable.

(5. continued)

E. Vacancy.

A vacancy is an unencumbered position which management plans to fill.

(1) Vacancies do not exist in the following circumstances:

- (a) When the incumbent of a position receives a career promotion as specified in FPM Chapter 335 and any implementing instructions within DHHS, including the applicable merit promotion plan;
- (b) When an incumbent of a position is promoted without a significant change in duties and responsibilities (i.e., the correction of a classification error or issuance of a new classification standard);
- (c) When a Commissioned Officer is promoted in the position he/she occupies;
- (d) When an employee serving on a temporary promotion is returned to the position from which promoted, provided such position was not filled during the time the employee was temporarily promoted. (The duties of the position could have been performed, by another employee on detail because a detail is not the filling of a position. See 5.E.(2) below);
- (e) When an employee is reassigned or promoted because of the addition, deletion, or modification of duties and responsibilities of the employee's position, provided such changes constitute a redescription of an encumbered position rather than the filling of a vacancy. The resulting description is considered a redescription if the employee continues to perform the same basic function, with the former duties being absorbed into the redescribed position. When such reassignment or promotion is processed, the Standard Form 50, Notification of Personnel Action, will state the following in Item 30: "This action is taken in accordance with the IHS Circular 87-2 and reflects a redescription of an existing encumbered position and does not constitute filling a vacancy." The OF-8, Position Description, will show "redescription" and not "new" position;
- (f) When an employee is changed from employment in the civil service to employment in the PHS Commissioned Corps. or vice versa, but continues to perform the same job; i.e., carries out the same duties and responsibilities;
- (g) When an employee returns to his or her IHS position of record from detail, long-term training, furlough, or leave without pay (LWOP);

(S.E.(1) continued)

(h) When, through application of civil service reduction-in-force or Commissioned Corps reduction-in-strength procedures, one employee displaces another;"

(1) When an employee's pay is adjusted because of a change in, tour of duty (e.g. part-time to full-time) in the same position. Such changes must, of course, be for sound management purposes and not to circumvent the spirit or letter of the Indian preference requirement;

Cj> When an employee is demoted under 5 U.S.C. Chapters 43 or 75;

(k) When an employee does not satisfactorily complete a probationary period as a supervisor or manager and is consequently demoted or reassigned to a nonsupervisory or nonmanagerial position under 5 U.S.C. 3321(b)(2);

(1) When an employee is removed from the SES under 5 U.S.C. 3592;

(III) When a non-Indian preference employee is restored to his/her position based on a decision from a third party such as Equal Employment Opportunity Commission (EEOC), Merit Systems Protection Board (MSPB), Federal Labor Relations Authority (FLRA), etc.

(2) A vacancy is not being filled when an employee is detailed to a position under established Federal personnel guidelines not requiring the application of merit promotion procedures. Such details must, of course, be for sound management purposes and not to circumvent the spirit or letter of the Indian preference requirements.

6. GUIDELINES FOR INTERPRETATION OF "INDIAN" (See 5.A. above)

A. "Members of any recognized Indian tribe now under Federal jurisdiction" are those persons officially enrolled in accordance with such tribes' constitutional membership criteria. Even if there are **no** tribal constitutions or official tribal rolls, the BIA may determine that they are eligible for preference.

8. Applicants applying as "Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation" shall meet all three of the following criteria:

(1) Be descended from a member of any recognized tribe now under Federal jurisdiction AND

(2) Have been born on or before June 1, 1934; AND

(6. 8. continued)

(3) Have been residing within the present boundaries of any Indian reservation on June 1, 1934.

C. The requirement of one-half or 'more Indian blood applies to persons whose ancestry is from a Federally recognized tribe and/or whose ancestry is from certain non-Federally recognized tribes as determined by the BIA.

0. The Alaska Natives Claims Act of December 18, 1971, (75 stat. 688 requires for purposes of eligibility, the following:

"All 1 persons who are enrolled with one of the organized Alaska Native groups or who qualified for enrollment, including their descendants, who possess at least 1/4 degree Alaska Native blood."

E. The stated criterion will apply to the Osage Tribe of Oklahoma whose rolls were closed by Act of Congress. Many such persons have received preference based on the one-quarter degree standard. In order that they are not now deprived of that eligibility and made to meet the one-half degree standard, the quarter-degree standard will apply until September 14, 1988, : or 'until the tribe formally organizes and establishes membership standards, whichever comes first.

7. VERIFYING INDIAN DESCENT.

The BIA, Department of Interior, determines when an individual meets the definition of an Indian. Upon request, the BIA Superintendent of the individual's home agency or in unusual circumstances (i.e. determining Indian blood derived from non-Federally recognized tribes, or from an unenrolled ancestor), the BIA Division of Tribal Government Operations, Washington, D.C. 20240, will provide a written certification of Indian descent. Exhibit 1 is a copy, of the BIA Form S-4432 entitled "Verification of Indian Preference for Employment," to be used when requesting certification from BIA. Except as provided below, to be considered a preference eligible, an applicant claiming Indian preference must submit, with the employment application (unless otherwise specified in the vacancy announcement>. a Copy of a properly completed and signed BIA certification Form ,5-4432 (or equivalent form issued by a tribe authorized by P.L. 93-638 contract to perform the certification function on behalf of the BIA) that he/she is an Indian as defined in this Circular. The SPOs are responsible for verifying that the information submitted by the candidates meets the criteria specified in . . ^{chic} Circular. The BIA certification must be made a permanent part of the individual's Official Personnel Folder. An employee of the IHS who applies for a position vacancy in the Area served by his/her own SPO, however, will not be required to resubmit such proof so long as such proof is on file in his/her Official Personnel Folder (unless otherwise stated in the vacancy announcement). Applicants with proof already on file must note that fact in Item 47 of the Application for Federal Employment form (SF-171). In the case of the seven Federally recognized tribes of New

(7. continued)

York State (Seneca Nation, Tonawanda Band of Senecas, St. Regis Mohawk , Tuscarora, .Oneida, Onondaga, and Cayuga), certification as to blood quantum and enrollment is acceptable from the tribal Officer so designated by the tribal governments of each of the respective tribes. A list of such tribal officers is maintained by the IHS SPOs.

In the past, Indian preference was verified by using Form PHS 2411 "Certificate of Indian Preference" when tribal rolls were available. When tribal rolls were not available, a signed statement by the employee showing his/her percentage of Indian ancestry and the tribe to which he/she belonged together with certification by a personnel official that the individual submitted sufficient proof of entitlement to Indian preference was accepted. Personnel who were employed by the IHS on February 16, 1978 (effective date of IHS regulation on Indian Preference) and who received preference. according to the rules and procedures in effect at the time preference was granted will continue to be preference eligibles so long as they are continuously employed in positions subject to preference.

8. PROCEDURES.

- A. All vacancies in the IHS will be announced and advertised to allow interested Indian applicants an opportunity to apply, including those for civil service expert, consultant appointments, student stipend appointments, for a reasonable period of time or on an "open continuous" basis, with the following exceptions;
- (1) The filling of a position by a current Federal employee or Commissioned Officer with Indian preference (or a former employee with Indian preference who is eligible for reinstatement) if merit promotion procedures are not required;
 - (2) The appointment of an Indian preference eligible (a) in the competitive service where direct hire authority exists or (b) in the excepted service where direct hire authority exists for the comparable competitive service position;
 - (3) A temporary appointment not to exceed 30 days to meet documented emergency needs (see FPM Chapter 316, Subchapter 4-8);
 - (4) The reassignment of a non-Indian preference eligible under the specific circumstances prescribed in P.L. 96-135 and with the prior approval of the ASPER;
 - (5) The filling of a position with a non-Indian preference eligible if each tribal organization concerned grants, in writing, a waiver of the Indian preference requirement for the particular action in accordance with section 2(c) of P.L. 96-135. unless the prescribed staffing procedures otherwise require advertising (e.g., merit promotion)

(8.A. continued)

- (6) The filling of a vacant position in accordance with Part 3~2~. Subpart G, of title 5 of the Code of Federal Regulations concerning reemployment rights of former IHS employees after service in tribal organizations as specified in the Indian Self-Determination Act;
 - (7) The filling of a vacant' position with a former IHS employee exercising statutory reemployment rights (e.g., under the Foreign Assistance Act) to the IHS position previously held or one of like rank. grade., and salary;
 - (8) The filling of a vacant position with an employee who does not satisfactorily complete a probationary period as a supervisor or manager under 5 U.S.C. 3321(b)(2) and is consequently assigned to a nonsupervisory or nonmanagerial position;
 - (9) The filling of a vacant. position with an employee who is demoted under Parts 432 or 752 of title 5 of the Code of Federal Regulations;
 - (10) The filling of 14 vacant position with an employee removed from the Senior Executive Service under 5 U.S.C. 3592; and
 - (11) Appointment of a former IHS -or BIA employee as identified under the ESEP and FPM Chapter 302, subpart 4-1, who is an Indian preference and veteran preference applicant who meets the qualification standards of the position.
8. When one or more qualified Indian preference applicants apply for an advertised position, the non-Indian preference applicants will not initially be rated or referred to the selecting official for consideration. However, if all qualified Indian preference candidates who applied for the position are eliminated from consideration, the non-Indian preference candidates who applied for the vacancy under the MPP will be rated and the best qualified referred for consideration.

The only valid reasons for eliminating an Indian preference candidate are:

- (1) Determination that the candidate is, in fact, ineligible for preference;
- (2) The candidate does not meet the qualification requirements, including selective factors, for the position;
- (3) The candidate is not suitable for employment in the position to be filled;

(8.8. continued)

(4) The candidate declined further consideration;

(5) The candidate declined an Offer of the position after applying for the vacancy.

Qualified persons with Indian preference may be considered for either competitive or excepted positions under civil service, or may be assigned to a billet as an officer in the PHS Commissioned Corps. If qualified Indian candidates are not available as a result of the IHS vacancy announcement and referrals from the Division of Commissioned Personnel (DCP), management may fill the position with a non-Indian from either personnel system.

- C. If a position is advertised at more than-one grade level, selection may be made at any level provided there is compliance with the Indian preference policy in the selection process.. A non-Indian may not be selected at one grade level if there is a qualified Indian available at any one of the grade levels advertised. The fact that a management decision was made (as stipulated on the Request for Personnel Action, SF-52, and concurred in by the servicing personnel officer), prior to advertising, that the position could be filled at more than one level will require the selection of an Indian If one is qualified for employment at any of the levels announced.
- D. Candidates for civil service and commissioned corps will be referred separately. (See Appendix D-1 of the IHS Area MPP) (See F.(1) below for commissioned corps procedures). Civil service candidates will be referred in accordance with the applicable MPP or the IHS ESEP.
- E. Selecting officials may decide not to make a selection from the roster of candidates presented for consideration. A decision, for example, may be made (1) not to fill the position at that 'time, (2) to cancel or abolish the position, or (3) to readvertise the position in an effort to identify additional candidates. Such decisions must, of course, be for sound management purposes and not to circumvent the spirit or letter of the Indian preference requirement. A position may not be readvertised for 120 days if there were three or more qualified and available Indian candidates identified through the previous announcement unless it is justified in writing and approved by the Area Director (Director, IHS for other components and when the Area Director is the selecting official) or that person's designee.
- F. Identification of IHS Commissioned Officer Candidates.
 - (1) When Commissioned Corps candidates apply on vacancy announcements. the SPO will refer them to the DCP for qualifications determinations. If they meet the listed experience and training requirements, which will include the statutory standard referenced in 5.C.(4)

(8.F.(1) continued)

above, they will be submitted to the SPO who will refer them to the selecting official on a roster identified as "Referral for Consideration Under the Commissioned Corps Personnel System," (See Appendix D-1 Area MPP) listing the candidates by name (in alphabetical order), category, rank, title of Present billet and organizational location. If an Officer is selected, a Completed form 1662, "Request for Personnel Action" will be sent to DCP for approval and final assignment in accordance with the procedures outlined in the document "Roles and Responsibilities for Indian Health Service Commissioned Corps Personnel Servicing" issued by the Director, IHS on April 14, 1986.

- (2) PHS Commissioned Corps officers interested in an assignment within the IHS (but not for a specific vacancy) should notify, in writing, the Chief, Officer Development, Branch, DCP. - Officers claiming Indian preference must include the necessary documentation when applying through this program or through a specific vacancy announcement.
- (3) When filling health professional positions, the selecting official may ask for referrals of commissioned officers from the Area Director, his/her professional branch chiefs, or the SPO. The Area Director or his/her designee will send a current billet description to DCP and request a list of qualified commissioned officers which the selecting official may consider for the assignment. The statement of qualifications required on the billet will include, as a minimum, the statutory standard. The qualifications evaluation and actual availability of the officer for the assignment will be determined by DCP in accordance with the billet requirements and commissioned corps regulations and procedures. Those officers found qualified and available will be referred for consideration. Use of the procedure does not alter the requirement to advertise vacancies as specified in section 8.A.

G. Selection of individuals for IHS positions rests with the IHS line managers who have selecting authority. They may select candidates from any source consistent with law, civil service and commissioned corps regulations, and applicable DHHS, PHS, HRSA and IHS personnel policies. Maximum latitude is permitted selecting officials in exercising the authority to select the candidates they feel are best qualified, regardless of the personnel system previously used to fill the position.

9. REDUCTION-IN-FORCE (RIF). Public Law 96-135 requires that competitive and excepted service registers in IHS be combined in the event of RIF and that employees entitled to Indian preference will be retained in preference to other employees within the same Subgroup. (See PHS

(9. continued)

Personnel Instruction 351-1-50C). Once retention registers are established, RIF procedures are applied as described in DHHS Personnel Instruction 351-1. A non-Indian may not be assigned to a vacant position during RIF without prior approval of the ASPER.

10. CITIZENSHIP REQUIREMENT. It is IHS policy that lack of U.S. Citizenship disqualifies an applicant for appointment under the Schedule A 213.3116(b)(8) appointing authority. The Director, IHS, has the authority to grant exceptions to this requirement. If the only applicant with Indian preference is a non-citizen, then an exception must be requested or the vacancy must remain unfilled.
11. VETERAN PREFERENCE. In an opinion by the Solicitor General to the Department of the Interior dated June 4, 1954 (M-362051, it was held that the appointments made under Indian preference take precedence over the provisions of Section 3 of the Veterans' Preference Act of 1944 (5 U.S.C. 2108). In accordance with this opinion, and on the advice of the DHHS Office of General Counsel, it is the policy of the IHS; with respect to appointments in the excepted service, that veteran preference' will be applied as set forth in FPM Chapter 302 and DHHS Personnel Instruction 302-1.
12. EXCEPTED SERVICE CREDITABLE FOR CAREER TENURE IN THE COMPETITIVE SERVICE. Exhibit 2 contains information on how service by an Indian employee under an excepted appointment may be credited toward career tenure when the employee is appointed in the competitive service in IHS.
13. COMPLAINT PROCESS.

A. For Employees.

If an employee has a complaint about the application of Indian preference and the matter cannot be resolved on an informal basis, the employee may file a grievance under DHHS Personnel Instruction 771-3 or in accordance with any applicable grievance procedure negotiated with a recognized labor organization. A Commissioned Officer may file a grievance under Commissioned Corps Personnel Manual Issuance Subchapter CC 26.1, Instruction 5.

B. For Outside Applicants.

In the event an applicant from outside DHHS has a complaint about the application of Indian-preference and the matter cannot be resolved on an informal basis with the SPO. the applicant may request a formal review:

- (1) The applicant may request a formal review within 30 days of the event or of notification of the event (if later) causing

(13.8.(1) continued)

dissatisfaction. The request must be in writing and addressed to the respective Area Director or the IHS Director when it involves a matter in other components of the IHS. (In Situations where these officials participated in the event giving rise to the complaint, the complaint will be referred to the next higher level management official). Such official will make whatever inquiry is appropriate to resolve the issues and provide a final written decision to the complainant within 15 workdays of receipt of the formal complaint.

- (2) If the complaint concerns an action by a Regional Personnel Office (RPO) employee or an IHS employee under the administrative direction of an RPO, the applicant must address the complaint in writing to the Regional Personnel Officer within 30 calendar days after notification of the occurrence of the action causing dissatisfaction. That official will provide the applicant with a final decision in writing within 15 workdays.

C. For Employees and Outside Applicants.

Civil Service employees and outside applicants who believe that a decision about Indian preference also improperly involved other consideration of race, color, religion, sex, age, national origin, or handicap, may file a complaint of discrimination under DHHS Personnel Instruction 1613-3. Commissioned Officers may file similar complaints under Commissioned Corps Personnel Manual Issuance Subchapter CC 26.1, Instruction. 6.

14. RESPONSIBILITIES.

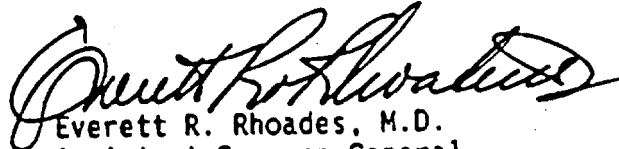
- A. Managers and supervisors are responsible for assuring that the spirit and the letter of this Circular are met in decisions they make.
- B. In addition to the responsibilities identified in A. above, Area Directors are responsible for assuring that no Commissioned Corps personnel action is effected in the organization under their direction which is inconsistent with this Circular. The Director, IHS, is so responsible for headquarters positions.
- C. Equal Employment Opportunity Officers are responsible for assisting in efforts to identify and recruit Indian candidates and for advising managers and supervisors on the principles and programs of equal employment opportunity as applied in the IHS.
- D. Servicing personnel officers are responsible for assuring that no civil service personnel actions are effected which are inconsistent with the Indian preference circular, for providing managers and supervisors guidance and technical assistance necessary to implement the provisions of this circular. and for providing information on the

(14.D. continued)

Interpretation and application of Indian preference. Personnel Officers must assure that all non-Indian candidates for employment are advised, in writing, of the operation of Indian preference in filling vacancies in the IHS.

15. SUPERSESSSION.

This Circular supersedes IHS Circular 79-7 dated November 19, 1979. as amended.



Everett R. Rhoades, M.D.
Assistant Surgeon General
Director, Indian Health Service

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

VERIFICATION OF INDIAN PREFERENCE FOR EMPLOYMENT IN BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE ONLY

To Establish eligibility for Indian preference for employment
with BIA/IHS, complete one of the categories below and submit
with your SF-171, Application for Federal Employment.

Category
A

MEMBERS OF FEDERALLY RECOGNIZED INDIAN TRIBES, BANDS OR COMMUNITIES.

This is to certify that the person named below is a member of the tribe indicated:

Full Name	Date of Birth	Tribal Affiliation
Tribal leader or Representative	BIA Representative	Date
Title	Title	
Date	Agency Name	

Category
B

DESCENDANTS OF MEMBERS OF FEDERALLY RECOGNIZED INDIAN TRIBES, BANDS OR COMMUNITIES WHO WERE RESIDING ON ANY INDIAN RESERVATION ON JUNE 1, 1934

This is to certify that the person named below has established to my satisfaction that he is a descendant of an enrolled member of the tribe named below and that he was living on an Indian reservation on June 1, 1934. The applicant's family history is outlined on the attached family history chart:

Name of Individual	Date of Birth	Reservation of Residence on June 1, 1934
Ancestor	Tribal Record of Affiliation	
Date	BIA Representative	
	Title	

Category
C

PERSONS WHO POSSESS AT LEAST 1/4 DEGREE INDIAN BLOOD DERIVED FROM TRIBES
INDIGENOUS TO THE UNITED STATES:

This is to certify that I have reviewed the documentation to support the below listed individual's claim to the possession of at least 1/2 degree Indian blood. The attached family history chart outlines the individual's family history:

Name	Date of Birth	Degree of Blood and Tribal Derivation
Based on:		
Name Records	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Degree or Blood and Tribal Derivation
Based on:		
	BIA Representative	Date
	Title	
Name Records	Agency	

Name	Date of Birth	Degree of Blood and Tribal Derivation
Based on:		
	BIA Representative	Date
	Title	
Name Records	Agency	

Name	Date of Birth	Degree of Blood and Tribal Derivation
Based on:		
Name Records	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Degree of Blood and Tribal Derivation
Based on:		
	BIA Representative	Date
	Title	
Name Records	Agency	

Category
D

PERSONS OF ESKIMO OR OTHER ABORIGINAL PEOPLES OF ALASKAN DESCENT

This is to certify that the person named below has established to my satisfaction that he is qualified for Indian Preference because of his possession of Eskimo or other aboriginal peoples' blood of Alaska. The attached family history chart outlines the individual's family history:

Name	Date of Birth	Alaska Native Group
		Record(s) on Which Based
	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Alaska Native Group
		Record(s) on Which Based
	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Alaska Native Group
		Record(s) on Which Based
	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Alaska Native Group
		Record(s) on Which Based
	BIA Representative	Date
	Title	
	Agency	

Name	Date of Birth	Alaska Native Group
		Record(s) on Which Based
	BIA Representative	Date
	Title	
	Agency	

FAMILY HISTORY
for Categories B, C, & D

Applicant	Father	Paternal Grandfather
		Paternal Grandmother
	Mother	Maternal Grandfather
		Maternal Grandmother
<u>Family History continuation</u>		
Paternal Grandfather	Great-Grandfather	Great-Great-Grandfather
		Great-Great-Grandmother
	Great-Grandmother	Great-Great-Grandfather
		Great-Great-Grandmother
Paternal Grandmother	Great-Grandfather	Great-Great-Grandfather
		Great-Great-Grandmother
	Great-Grandmother	Great-Great-Grandfather
		Great-Great-Grandmother
Maternal Grandfather	Great-Grandfather	Great-Great-Grandfather
		Great-Great-Grandmother
	Great-Grandmother	Great-Great-Grandfather
		Great-Great-Grandmother
Maternal Grandmother	Great-Grandfather	Great-Great-Grandfather
		Great-Great-Grandmother
	Great-Grandmother	Great-Great-Grandfather
		Great-Great-Grandmother
Maternal Grandmother	Great-Grandfather	Great-Great-Grandfather
		Great-Great-Grandmother
	Great-Grandmother	Great-Great-Grandfather
		Great-Great-Grandmother

Exhibit 2. EXCEPTED SERVICE CREDITABLE FOR CAREER TENURE IN COMPETITIVE SERVICE

- A. Ordinarily, excepted service is not creditable, for career tenure when an individual is given a competitive appointment from a civil service register. However, in a letter dated February 4, 1965, the Civil Service Commission (CSC--now the United States Office of Personnel Management [USOPM]) granted special authority- to QHS whereby, following a competitive appointment, the servicing personnel office may credit toward career tenure the nontemporary excepted service rendered by an Indian employee under Schedule A authority 213.3116(b)(8). This authority is applicable while the employee remains in IHS. It also applies to Indian employees who transfer to IHS from positions in the Department of the Interior under Schedule A authority 213.3112(a)(7). (Similarly, the Department of the Interior has been authorized to apply this rule to employees of IHS who transfer to positions directly and primarily related to providing services to Indians in that Department.)

Indians who are given career-conditional competitive appointments and who are considered to have career tenure under this special authority are in Group I for RIF purposes as long as they remain in IHS. If they leave IHS, their status is the same as that of any other career-conditional employee with a competitive appointment.

6. When this special rule for crediting excepted service toward career tenure is used, the following reporting instructions should be followed on the SF-SO-B, Notification of Personnel Action:
1. Conversion to a competitive career-conditional appointment - When an Indian is appointed from a civil service register to a position in IHS, the appointment should be effected as a "Conversion to Career-Conditional Appointment" regardless of how long the employee served under Schedule A 213.3116(b)(8) or 213.3112(a)(7). The beginning date of service counting toward career tenure under the normal rules is the date of conversion to the career-conditional appointment. However, if the employee has completed three years of service under a nontemporary excepted appointment, the following statement is to be shown in Item 37, "Remarks": "This employee is considered to have career status (Group I) while he/she holds a position in IHS."
 - s 2. Change in tenure under special rule - When an Indian employee completes three years of substantially continuous service under the special rule which involves service both before and after receiving a career-conditional appointment from the register, an SF 50-B should be issued showing the nature of action as "Change in Tenure-Indian Preference" and the authority as "CSC Letter of February 4, 1965." The statement shown in 1 above should be included in Item 37, "Remarks." Copies of the SF 50-B should not

(8.2. continued)

be sent to the payroll office nor to USOPH but should be distributed to the employee and placed in the Official Personnel Folder.

3. Conversion to career tenure under normal rules - When the employee completes three years of substantially continuous creditable service after receiving a career-conditional appointment from a register, an SF 50-B should be issued **in** accordance with FPH Supplement 296-33, Subchapter 26.
4. Transfer from Department of the Interior to IHS - When an employee occupying a competitive position in the Department of the Interior to which the Indian preference law is applicable transfers to a competitive position in IHS, the transfer should be effected as "Transfer Career-Conditional" or "Transfer a Career", as appropriate. Where the employee has completed three years of creditable service under the "special rule," but has not completed the three years of substantially continuous service under the normal rules for career status in the competitive service, the statement shown under 1 above should be included in Item 37, "Remarks".